# Message Text

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INFO AMEMBASSY SUVA	
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C O N F I D E N T I A L SECTION 1 OF 3 MANILA 6706	
LIMDIS	
USUN FOR AMB STEVENSON, CINCPAC FOR POLAD, DOD FOR MR. FRENCO/JCS FOR ADM MORRIS	СН,
FROM JOHN NORTON MOORE	
E.O. 11652: GDS	
TAGS: PBOR	
SUBJECT: LOS: ARCHIPELAGO CONSULTATIONS	
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1. DURING CONSULTATION WITH GOP (SEE SEPTEL), US

PROVIDED GOP WITH REVISED PROPOSAL ON ARCHIEPELAGOS. REVISION IS RESULT, IN PART, OF CONSULTATIONS WITH GOI MAY 31-JUNE 1. PRINCIPAL CHANGES FROM ORIGINAL PROPOSAL ARE (1) SUBSTITUTION OF TERM "ARCHIPELAGIC SEALANES" FOR "ARCHIPELAGIC PASSAGE AREAS"; (2) TERRITORIAL SEA TO BE DRAWN FROM OUTSIDE OF ARCHI-PELAGIC SEALANES SUBJECT TO ARCHIPELAGIC SEALANES PASSING FROM HIGH SEAS TO HIGH SEAS THROUGH TERRI-TORIAL SEA ON EACH END: (3) NO LONGER NEED TO INCLUDE ALL ISLANDS IN INLAND STATE (EXCEPT ONLY ONE CLUSTER PERMITTED EACH STATE); (4) ONE PERCENT OF TOTAL NUMBER OF ARCHIPELAGIC LINES COULD BE IN EXCESS OF 80 NAUTICAL MILES UP TO A MAXIMUM OF 100 NAUTICAL MILES (THIS WOULD PERMIT INDONESIA TWO 100-MILE LANES, THE PHILIPPINES ONE AND FIJI NONE--WHICH SHOULD MEET FUNCTIONAL NEEDS OF STATES CONCERNED); AND (5) 1:1 LOWER LIMIT ON LAND-WATER RATIO FOR QUALIFICATION OR AN ARCHIPELAGO STATE (THIS CHANGE TENTATIVE).

- 2. FOR EMBASSIES CANBERRA, BONN AND WELLINGTON.
  PLEASE PASS TEXT (PARA 7 BELOW) TO APPROPRIATE HOST
  GOVT LOS OFFICIALS. YOU SHOULD INDICATE THAT TEXT
  REFLECTS REVISION BASED ON MOST RECENT CONSULTATIONS
  WITH ARCHIPELAGO STATES AND IS BEING PASSED FOR THIS
  INFORMATION AND ANY COMMENTS THEY WOULD CARE TO MAKE.
  YOU SHOULD ALSO INDICATE THAT US CONTINUES TO BE
  ENCOURAGED BY THESE DISCUSSIONS MOST RECENTLY WITH
  INDONESIAN AND PHILIPPINE GOVTS.
- 3. FOR JAKARTA. PLEASE PASS TEXT TO SOEDARMONO ASAP ON HIS RETURN ALONG WITH NOTES OF WASHINGTON-JAKARTA MEETINGS PREVIOUSLY SENT REFTEL INDICATING THIS IS A REVISED TEXT OF US PROPOSAL RESULTING FROM MOST RECENT CONSULTATIONS WITH INDONESIA WHICH WE HAVE PASSED TO THE PHILIPPINES AND WILL PASS FIJI. EMBOFF SHOULD ALSO ASSURE SOEDARMONO THAT TALKS WITH PHILIPPINES DID NOT REPEAT NOT IN ANY WAY RAISE VIEWS OF INDONESIANS OR REPORT BY US TO PHILIPPINES ON INDONESAIN VIEWS ON US PROPOSAL AND THAT US TEAM WAS GREATLY ENCOURAGED BASED ON OUR DETAILED CONFIDENTIAL

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DISCUSSIONS WITH THE PHILIPPINE TEAM. IT WOULD BE HELPFUL IF AMB FINDS CONVENIENT OPPORTUNITY TO CONTINUE TO REINFORCE MOMENTUM OF TALKS, US SENSE OF PROGRESS FROM RECENT WORK CONSULTATIONS, AND COMPLIMENTS FOR "ABLE LEADERSHIP" OF SOEDARMONO AND DJALAL IN WASH TALKS.

4. FOR USUN. PLEASE PASS TEXT TO FIJI REP NANDAN,

WITH SIMILAR EXPLANATION AND THE SENSE OF US OPTIMISM RESULTING FROM RECENT WASH TALKS INDONESIA AND MANILA TALKS PHILIPPINES. MOORE WILL BRIEF NANDAN IN MORE DETAIL IN NEW YORK NEXT WEEK. PLEASE MAKE APPOINTMENT FOR MOORE WITH NANDAN ON TUESDAY, JUNE 11, OR IF NOT POSSIBLE ON JUNE 11 THEN SOMETIME DURING JUNE 11-13.

5. FOR LONDON, PARIS, MOSCOW, POSTS SHOULD CONTACT HOST GOVT LOS REPRESENTATIVES (PREFERABLY JACKLING (UK), ROMANOV (USSR), JEANNEL (FRANCE)) AT EARLIEST OPPORTUNITY AND INDICATE THAT TEAM HEADED BY JOHN NORTON MOORE, DEPUTY REP OF THE PRESIDENT FOR LOS CONFERENCE, HAS RECENTLY COMPLETED CONSULTATIONS WITH INDONESIAN AND PHILIPPINE LOS TEAMS ON ARCHI-PELAGO PRINCIPLE AND WILL REPORT ON PROGRESS MADE AT "GROUP OF FIVE" HEADS OF DELEGATION MEETING IN NEW YORK NEXT WEEK. POSTS SHOULD INDICATE THAT INITIATIVE PROCEEDING WELL AND THAT US TEAM CON-TINUES OPTIMISTIC ON CHANCES FOR AGREEMENT, POSTS SHOULD NOT REPEAT NOT PROVIDE TEXT OF US PROPOSAL CONTAINED PARA 6. MOORE WILL PROVIDE TEXT WITH EXPLANATION AT GP OF 5 HEADS OF DELEGATION MEETING IN NEW YORK.

6. FOR TOKYO. MOORE WILL BRIEF AMB SUGIHARA ON DEVELOPMENTS IN ARCHIPELAGO NEGOTIATIONS WHEN THEY MEET ON JUNE 7.

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DOTE-00 PRS-01 OMB-01 EB-03 COME-00 TRSE-00 SCI-03

CEQ-01 EPA-01 FAA-00 DRC-01 /076 W ..... 060709

PR 070003Z JUN 74

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 4113

AMEMBASSY JAKARTA

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AMEMBASSY MOSCOW

AMEMBASSY LONDON

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AMEMBASSY TOKYO PRIORITY

INFO AMEMBASSY SUVA

CINCPAC

AMEMBASSY CANBERRA

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## LIMDIS

7. FOLLOWING IS TEXT OF US PROPOSAL DELIVERED TO GOP JUNE 6: BEGIN TEXT REVISED DRAFT

SUPPORT FOR ARCHIPELAGO PRINCIPLE

WITH RESPECT TO THE ARCHIPELAGO PRINCIPLE, THE NEW COMPREHENSIVE TREATY ON OCEANS LAW TO BE NEGOTIATED AT THE LAW OF THE SEA CONFERENCE WOULD INCLUDE A CHAPTER ON ARCHIPELAGO STATES TO PROMOTE THEIR UNIVERSAL RECOGCONFIDENTIAL

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NITION.

I. ELEMENTS CONCERNING DEFINITION OF ARCHIPELAGO STATE AND DELIMITATION OF THE TERRITORIAL SEA AND AREAS OF ECONOMIC JURISDICTION.

WITH RESPECT TO THE DEFINITION OF AN ARCHIPELAGO STATE AND DELIMITATION OF THE TERRITORIAL SEA AND AREA OF ECONOMIC JURISDICTION THE CHAPTER WOULD INCLUDE THE FOLLOWING ELEMENTS:

A. AN ARCHIPELAGIC ISLAND STATE WHOSE COMPONENT ISLANDS AND OTHER NATURAL FEATURES FORM A SINGLE INTRINSIC GEOGRAPHICAL, CULTURAL, ECONOMIC AND POLITICAL ENTITY MAY DRAW ARCHIPELAGIC LINES CONNECTING OUTER POINTS OF THE OUTERMIST ISLANDS OF THE ARCHIPELAGO PROVIDED THAT SUCH LINES ENCLOSING THE ISLAND GROUP DO NOT ENCLOSE AN AREA OF WATER WHICH WILL RESULT IN A LAND-TOWATER RATIO OF GREATER THAN 1:1 OR LESS THAT 1:5

AND PROVIDED THAT THE MAXIMUM LENGTH OF ANY SUCH LINES SHALL NOT EXCEED 80 NAUTICAL MILES EXCEPT THAT ONE PERCENT OF SUCH LINES MAY EXCEED 80 NATUICAL MILES PROVIDED THEY DO NOT EXCEED 100 NAUTICAL MILES.

B. THESE LINES URROUNDING ARCHIPELAGIC WATERS SHALL BE DESIGNATED ARCHIPELAGIC LINES.

C. FOR THE PURPOSE OF COMPUTING THE LAND-TO-WATER RATIO IN PARAGRAPH 1, LAND AREAS SHALL INCLUDE WATERS WITHIN REEFS AND LAGOONS OF ATOLLS.

D. WATERS WITHIN ARCHIPELAGIC LINES SHALL BE DESIGNATED ARCHIPELAGIC WATERS.

E. THE TERRITORIAL SEA AND AREAS OF ECONOMIC JURIS-DICTION OF THE ARCHIPELAGIC STATE SHALL BE MEASURED FROM THE ARCHIPELAGIC LINES.

II. THE REGIME OF ARCHIPELAGIC WATERS, INCLUDING TRANSIT CONFIDENTIAL

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OF SHIPS AND AIRCRAFT.

WITH RESPECT TO THE REGIME OR ARCHIPELAGIC WATERS, INCLUDING TRANSIT OF SHIPS AND AIRCRAFT THE CHAPTER ON ARCHIPELAGICS WOULD INCLUDE THE FOLLOWING ELEMENTS:

A. SUBJECT TO THE PROVISIONS CONCERNING ARCHIPELAGIC PASSAGE OF SHIPS AND AIRCRAFT THE ARCHIPELAGO STATE WOULD EXERCISE SOVEREIGNTY OVER THE RESOURCES, WATERS, SEABED, SUBSOIL, AND AIRSPACE ENCLOSED WITHIN THE ARCHIPELAGIC LINES.

B. THE TREATY WOULD SPECIFY THAT THE RIGHT OF PASSAGE IS A RIGHT OF TRANSIT IN ARCHIPELAGIC SEALANES THROUGH AND OVER THE ARCHIPELAGO STATE--THAT IS, A RIGHT OF UNIMPEDED ARCHIPELAGIC PASSAGE THROUGH THE ARCHIPELAGO STATE- IN THE NORMAL MODE FOR VESSELS AND AIRCRAFT (INCLUDING SUBMERGED TRANSIT, OVERFLIGHT OBOVE ARCHIPELAGIC SEALANES, AND NORMAL MEASURES ASSOCIATED WITH TRANSIT), AND WITH NO REQUIREMENT OF NOTIFICATION.

C. THE TREATY WOULD SPECIFY THAT THE TRANSITING VESSEL OR AIRCRAFT WOULD BE REQUIRED TO TRANSIT THE ARCHIPELAGO WITHOUT UNREASONABLE DELAY.

D. THE TREATY WOULD SPECIFY THAT TRANSITING VESSELS

OR AIRCRAFT SHALL REFRAIN FROM ANY THREAT OR USE OF FORCE IN VIOLATION OF THE CHARTER OF THE UNITED NATIONS AGAINST THE TERRITORIAL INTEGRITY OR POLITICAL INDEPENDENCE OF THE ADJACENT ARCHIPELAGO STATE.

E. THE TREATY WOULD SPECIFY THAT TRANSITING VESSELS WILL OBSERVE APPLICABLE GENERALLY ACCEPTED INTERNATIONAL STANDARDS FOR THE SAFETY OF NAVIGATION AT SEA AND THE PREVENTION OF POLLUTION. THE TREATY WOULD ALSO SPECIFY THAT TRANSITING AIRCRAFT WILL OBSERVE APPLICABLE RULES OF THE AIR ESTABLISHED BY ICAO. (ICAO REGULATIONS RELATING TO OVERFLIGHT OF THE HIGH SEAS). STATE CONFIDENTIAL

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AIRCRAFT WILL NORMALLY COMPLY WITH SUCH SAFETY MEASURES AND WILL AT ALL TIMES OPERATE WITH DUE REGARD FOR THE SAFETY OF NAVIGATION.

F. THE TREATY WOULD PROVIDE THAT ARCHIPELAGIC PASSAGE WOULD TAKE PLACE IN DESIGNATED ARCHIPELAGIC SEALANES. SUCH ARCHIPELAGIC SEALANES WOULD RUN FROM HIGH SEAS TO HIGH SEAS AND WOULD:

1. INCLUDE ALL NORMAL PASSAGE ROUTES THROUGH ARCHIPELAGIC WATERS, AND WITHIN SUCH ROUTES ALL NORMAL NAVIGATIONAL CHANNELS AND,

2. INCLUDE AN AREA WHICH AT ALL POINTS IS NOT LESS THAN THE NARROWER OF:

A. 80 PERCENT OF THE AREA BETWEEN THE NEAREST

A. 80 PERCENT OF THE AREA BETWEEN THE NEAREST POINTS OF LAND ON THE MAIN ISLANDS, I.E., NOT DRYING ROCKS OR SHOALS, OR B. 100 NAUTICAL MILES.

B. 100 NAUTICAL MILES.

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INFO OCT-01 SS-14 ISO-00 EUR-10 IO-03 EA-13 L-02 CIAE-00

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DOTE-00 PRS-01 OMB-01 EB-03 COME-00 TRSE-00 SCI-03

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P R 070003Z JUN 74

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 4114

AMEMBASSY JAKARTA

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AMEMBASSY MOSCOW

AMEMBASSY LONDON

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AMEMBASSY TOKYO PRIORITY

INFO AMEMBASSY SUVA

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G. THE TREATY WOULD PROVIDE THAT THE OBLIGATION TO DESIGNATE ARCHIPELAGIC SEALANES PURSUANT TO THESE CRITERIA IS AN OBLIGATION OF THE ARCHIPELAGO STATE SUBJECT TO COMPULSORY DISPUTE SETTLEMENT PROCEDURES GENERALLY APPLICABLE TO DISPUTES ARISING UNDER THE LAW OF THE SEA TREATY. IT IS UNDERSTOOD IN THIS CONNECTION THAT BOTH DELEGATIONS ARE COGNIZANT OF THE ILLUSTRATIVE CHART OF NORMAL NAVIGATIONAL PASSAGES AND CHANNELS USED DURING THEIR DISCUSSIONS. CONFIDENTIAL

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H. THE TREATY WOULD PROVIDE THAT THE ARCHIPELAGO STATE COULD REQUIRE NOTIFICATION FOR ANY VESSEL OR AIRCRAFT DEPARTING FROM THESE ARCHIPELAGIC SEALANES BECAUSE OF FORCE MEAJEURE, DISTRESS OR OTHER CIRCUMSTANCES. (IT WAS UNDERSTOOD IN THIS CONNECTION THAT THE U.S. WILL CONSIDER WHETHER THIS PRINCIPLE COULD BE EXTENDED FROM NOTIFICATION TO AUTHORIZATION IN AREAS OUTSIDE ARCHIPELAGIC SEALANES EXCEPT FOR THOSE VESSELS AND AIRCRAFT DEPARTING FROM SUCH ARCHIPELAGIC SEALANSES BECAUSE

OF FORCE MAJEURE OR DISTRESS.)

I. PRIVISION WILL BE MADE IN THE TREATY TO PROTECT NORMAL SHIPPING OUTSIDE ARCHIPELAGIC PASSAGE AREAS.

J. THE TREATY WOULD PROVIDE THAT THE ARCHIPELAGO STATE MAY, WITHOUT DISCRIMINATION AMONG SHIPS, TEMPORARILY SUSPEND NAVIGATION IN CERTAIN AREAS OUTSIDE ARCHIPELAGIC SEALANES, IF SUCH SUSPENSION IS NECESSARY TO ITS SECURITY. SUCH SUSPENSION WOULD BE DULY PUBLISHED.

SUPPORT FOR UNIMPEDED TRANSIT OF STRAITS USED FOR INTERNATIONAL NAVIGATION.

WITH RESPECT TO THE REGIME OF STRAITS USED FOR INTERNATIONAL NAVIGATION (OUTSIDE ARCHIPELAGIC WATERS) THE NEW COMPREHENSIVE TREATY ON OCEANS LAW TO BE NEGOTIATED AT THE LAW OF THE SEA CONFERENCE WOULD INCLUDE A CHAPTER ON TRANSIT OF STRAITS USED FOR INTERNATIONAL NAVIGATION TO INCLUDE THE FOLLOWING ELEMENTS:

A. PROTECTION OF THE RIGHT OF UNIMPEDED TRANSIT THROUGH AND OVER STRAITS USED FOR INTERNATIONAL NAVIGATION--THAT IS, TRANSIT IN THE NORMAL MODE FOR VESSELS AND AIRCRAFT (INCLUDING SUBMERGED TRANSIT AND OVERFLIGHT ABOVE THE STRAITS) AND WITH NO REQUIREMENT OF NOTIFICATION.

B. OBLIGATIONS ON TRNSITING VESSELS AND AIRCRAFT CONFIDENTIAL

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TO PROCEED WITHOUT DELAY THROUGH THE STRAIT, TO REFRAIN FROM ANY THREAT OR USE OF FORCE IN VIOLATION OF THE UN CHARTER AGAINST THE TERRITLRIAL INTEGRITY OR POLITICAL INDEPENDENCE OF THE STRAIT STATE, WITH RESPECT TO TRANSITING VESSELS TO COMPLY WITH GENERALLY ACCEPTED INTERNATIONAL STANDARDS FOR THE SAFETY OF NAVIGATION AT SEA AND THE PREVENTION OF POLLUTION AND WITH RESPECT TO TRANSITING AIRCRAFT TO OBSERVE APPLICABLE RULES OF THE AIR ESTABLISHED BY ICAO (ICAO REGULATIONS RELATING TO OVERFLIGHT OF THE HIGH SEAS). STATE AIRCRAFT WILL NORMALLY COMPLY WITH SUCH SAFETY MEASURES AND WILL AT ALL TIMES OPERATE WITH DUE REGARD FOR THE SAFETY OF NAVIGATION.

C. STRAIT STATE AUTHORITY TO ENFORCE AGAINST VESSELS NOT ENTITLED TO SOVEREIGN IMMUNITY VIOLATIONS

WITHIN THE STRAIT OF APPLICABLE INTERNATIONALLY ESTABLISHED DISCHARGE STANDARDS AND TRAFFIC SEPARATION SCHEMES SUBJECT TO APPROPRIATE SAFEGUARDS.

D. APPROPRIATE PRIVISION FOR LIABILITY FOR VESSELS AND AIRCRAFT FOR DAMAGE TO THE STRAIT STATE CAUSED BY VIOLATION OF THE TREATY OBLIGATIONS IMPOSED ON TRANSITING VESSELS AND AIRCRAFT.

(NOTE: THESE PRINCIPLES WOULD BE REFLECTED IN AGREED ARTICLES IN THE LAW OF THE SEA TREATY BUT DO NOT NECESSARILY AS WRITTEN CONSTITUTE EXACT OR COMPLETE TREATY PROVISIONS. SUCH TREATY PROVISIONS SHOULD BE JOINTLY DRAFTED AT AN EARLY TIME IN ORDER TO ENABLE MAXIMUM SUPPORT FOR MUTUAL OBJECTIVES. THESE PRINCIPLES ARE ALSO TO BE TAKEN AS A WHOLE AND AS SUCH SUPPORT IS DEPENDENT ON EARLY AGREEMENT BETWEEN THE PARTIES.) END TEXT.

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# Message Attributes

Automatic Decaptioning: Z Capture Date: 01 JAN 1994 Channel Indicators: n/a

**Current Classification: UNCLASSIFIED** 

Concepts: INNOCENT PASSAGE, LAW OF THE SEA, REPORTS, AGREEMENT DRAFT, AIRCRAFT, TERRITORIAL WATERS, MEETINGS,

WATERWAY ACCESS, NEGOTIATIONS, AIRCRAFT OVERFLI GHTS, ISLAND CLAIMS

Control Number: n/a Copy: SINGLE

Draft Date: 07 JUN 1974 Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: smithrj
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974MANILA06706
Document Source: CORE
Document Unique ID: 00 **Disposition Action: RELEASED** 

**Document Unique ID: 00** 

Drafter: n/a Enclosure: n/a Executive Order: GS Errors: N/A

Film Number: D740144-0564 From: MANILA

Handling Restrictions: n/a

Image Path: ISecure: 1

Legacy Key: link1974/newtext/t19740665/aaaacecn.tel

Line Count: 458

Locator: TEXT ON-LINE, ON MICROFILM Office: ACTION DLOS

Original Classification: CONFIDENTIAL
Original Handling Restrictions: LIMDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a

Page Count: 9

**Previous Channel Indicators:** 

Previous Classification: CONFIDENTIAL Previous Handling Restrictions: LIMDIS Reference: n/a Review Action: RELEASED, APPROVED

Review Authority: smithrj Review Comment: n/a Review Content Flags: Review Date: 24 APR 2002 **Review Event:** 

Review Exemptions: n/a Review History: RELEASED <24 APR 2002 by cunninfx>; APPROVED <24 FEB 2003 by smithrj>

**Review Markings:** 

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

**Review Media Identifier:** Review Referrals: n/a Review Release Date: n/a Review Release Event: n/a **Review Transfer Date:** Review Withdrawn Fields: n/a

Secure: OPEN Status: NATIVE

Subject: LOS: ARCHIPELAGO CONSULTATIONS CONFIDENTIAL

TAGS: PBOR, RP, AS, ID, US To: STATE

Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005